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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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KRISTIN K. MAYES, Chairman FEB 03 2009

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MS

AZ CORP COMMISSION  
DOCKET CONTROL

IN THE MATTER OF THE COMPLAINT OF  
STEVE PRAHIN,

DOCKET NO. W-03514A-07-0386

COMPLAINANT,

vs.

PAYSON WATER COMPANY,

RESPONDENT.

IN THE MATTER OF THE COMPLAINT  
OF REBECCA SIGETI,

DOCKET NO. W-03514A-08-0047

COMPLAINANT,

v.

PAYSON WATER CO., INC.,

RESPONDENT.

PROCEDURAL ORDER

**BY THE COMMISSION:**

On June 25, 2007, Steve Prahin filed with the Arizona Corporation Commission ("Commission") a formal complaint (Docket No. W-03514A-07-0386) against Payson Water Company ("Payson Water" or "Company") which appeared to allege that a representative of Payson Water insulted him and that the Company uses "aggressive bullying tactics" in response to customer complaints.

On July 16, 2007, Payson Water filed an Answer to the Complaint generally denying the allegations set forth therein, and stating several affirmative defenses. The Answer also requested that the Complaint be dismissed.

On September 14, 2007, a Procedural Order was issued scheduling a procedural conference for October 16, 2007.

1 The procedural conference was held, as scheduled, on October 16, 2007. During the  
2 conference, Mr. Prahin indicated that his concerns are related to the alleged need for additional water  
3 and storage capacity, and for improved customer service by Payson Water. Mr. Prahin and the  
4 Company agreed to arrange a meeting that included members of the community served by Payson  
5 Water, with assistance from the Commission's Staff.

6 On November 6, 2007, Payson Water filed a Joint Notice of Customer Meeting, stating that a  
7 meeting had been scheduled for November 10, 2007.

8 On January 11, 2008, Payson Water filed a Motion to Dismiss for Failure to State a Claim.  
9 Payson Water cited to a memorandum by Staff describing concerns raised during the November 10,  
10 2007, customer meeting. The Staff memorandum indicated that customers sought a new well and/or  
11 deepening of the Geronimo Well, as well as increased storage capacity, as a means of avoiding  
12 weekend outages. In its Motion, the Company contended that the issue of potential improvements to  
13 its storage system was addressed in a prior docket (W-03541A-05-0729), and that dismissal of Mr.  
14 Prahin's Complaint would not affect ongoing discussions with customers regarding production and  
15 storage capacity issues. Payson Water asserted that there are no allegations that the Company has  
16 violated any Arizona laws or Commission rules and, therefore, there is no basis to support the  
17 Complaint.

18 On January 25, 2008, Mr. Prahin filed a Response to the Company's Motion. In his  
19 Response, the Complainant raises a number of alleged improprieties by Payson Water, including:  
20 alleged violation of the 5<sup>th</sup> Amendment of the United States Constitution; alleged trespass on private  
21 land by the Company; a lack of necessary easements in locations where Company facilities are  
22 located; alleged lack of required monitoring devices and shut-off valves; and an allegation that the  
23 Elusive Acres Well is serving more customers than are authorized. Mr. Prahin also raised issues  
24 related to the alleged ownership of the Elusive Acres Well, claiming that legal title of the well has  
25 now been conveyed to the property owners of Elusive Acres and Payson Water should turn over  
26 ownership to the property owners.

27 On January 25, 2008, Rebecca Sigeti filed a formal complaint (Docket No.W-03514A-08-  
28 0047) against Payson Water alleging that a representative of the Company failed to follow up on

1 certain items agreed to during a November 10, 2007, meeting with customers. Ms. Sigeti stated that  
2 Payson Water needs to resolve storage and water issues or turn over the Company's assets and  
3 permits to the property owners of the Elusive Acres community.

4 On February 14, 2008, Payson Water filed an Answer and Motion to Dismiss. The Company  
5 stated that its representative agreed to meet with customers, but there are no storage and water issues  
6 that require resolution. Payson Water claimed that Ms. Sigeti failed to state a claim upon which relief  
7 can be granted, and the issues raised by the Complaint were already before the Commission in the  
8 Prahin complaint docket. The Company therefore requested that the Sigeti Complaint be dismissed.

9 On February 26, 2008, Ms. Sigeti filed a Response stating that she had not been contacted by  
10 the Company's representative to follow up on issues raised at the November 10, 2007, meeting. She  
11 also claimed that storage and water supply issues do exist for Payson Water, and that the remedy she  
12 is seeking is for the Elusive Acres Well Site and System to be "turned back over to the rightful  
13 owners."

14 On May 5, 2008, Procedural Orders were issued in each of the above-captioned dockets  
15 scheduling procedural conferences for May 20, 2008.

16 On May 20, 2008, the procedural conferences were held in each of these cases. During the  
17 procedural conferences, Payson Water agreed to meet with Mr. Prahin and Ms. Sigeti, as well as  
18 other members of the community, to discuss possible remedies regarding the production and storage  
19 issues raised by the Complaints. The parties also agreed to file a statement regarding the status of the  
20 discussions by June 20, 2008. Finally, it was agreed that the two Complaint dockets would be  
21 consolidated.

22 By Procedural Order issued May 23, 2008, the above-captioned dockets were consolidated,  
23 the parties were directed to meet and discuss the issues raised in the Complaints and file a status  
24 report by June 20, 2008, and a procedural conference was scheduled for July 11, 2008.

25 On June 4, 2008, James Dunne, an intervenor in the consolidated dockets, filed a letter.  
26 Letters were also filed on June 19, 2008, by Mr. Prahin and Ms. Sigeti regarding the meeting held  
27 with Payson Water's representatives. On June 20, 2008, Payson Water filed a Status Report  
28 describing its view of the customer meeting and proposals for improvements to the Company's

1 facilities.

2 On July 11, 2008, the procedural conference was held as scheduled. During the conference,  
3 Staff was directed to file a Staff Report by August 29, 2008.

4 On August 5, 2008, Staff filed a Memorandum describing the Payson Water system's  
5 capacity, before and after installation of the Company's proposed improvements to wells and storage  
6 capacity. Staff stated that the existing system has sufficient capacity to serve 88 service connections  
7 if well production does not fall below 22 gallons per minute ("GPM"); and that the system would  
8 have adequate capacity to serve up to 96 connections if the wells are increased by 2 GPM and 2  
9 10,000 gallon storage tanks are connected to the system. Staff recommended that Payson Water  
10 increase its current production capacity and add at least 10,000 gallons of storage by no later than  
11 December 31, 2008; and that the Company file its Arizona Department of Environmental Quality  
12 ("ADEQ") Approval of Construction for both projects by no later than January 31, 2009.

13 On August 19, 2008, Payson water filed a Response to Staff Report in which the Company  
14 concurred with Staff's recommended system improvements. According to the Company's filing, it  
15 completed refurbishment of the Elusive Acres well on May 22, 2008, and completed installation of an  
16 additional 10,000 gallons of storage capacity on July 24, 2008. As a result of these improvements,  
17 Payson Water claimed that the Staff recommendations were satisfied and the Company therefore  
18 requested that the above-captioned Complaint dockets be dismissed.

19 On August 26, 2008, Ms. Sigeti filed a letter stating agreement with the well improvement  
20 and storage addition undertaken by the Company. However, she stated that the system improvement  
21 plan does not address the current moratorium on installation of additional meters. Ms. Sigeti  
22 requested that the Commission order Payson Water to comply with a defined action plan to address  
23 future needs of the community.

24 On January 30, 2009, Payson Water filed a Status Report – Water System Improvement Plan.  
25 In its filing, the Company claims that it has implemented fully the proposed system improvement  
26 plan by completing the following projects: refurbishing the Elusive Acres Well and Geronimo Estates  
27 No. 1 Well; installing an additional 10,000 gallons of storage capacity at Geronimo Estates; and  
28 installing a second 10,000 gallon storage tank. The Company claims that it intends to file the

1 necessary approvals from ADEQ as soon as the documentation is available. Payson Water also  
2 requests that a procedural conference be scheduled to discuss dismissal of the Complaints once the  
3 ADEQ documents are filed with the Commission.

4 IT IS THEREFORE ORDERED that **Staff, the Complainants, and Intervenor shall file a**  
5 **Response to the Company's Status Report by March 2, 2009.**

6 IT IS FURTHER ORDERED that **Payson Water shall file a Reply by no later than March**  
7 **16, 2009.**

8 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized  
9 Communications) applies to this proceeding and shall remain in effect until the Commission's  
10 Decision in this matter is final and non-appealable.

11 IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend, or  
12 waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at  
13 hearing.

14 Dated this 3<sup>rd</sup> day of February, 2009.

15  
16   
17 DWIGHT D. NODES  
18 ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE

19 Copies of the foregoing mailed/delivered  
20 this 3<sup>rd</sup> day of February, 2009 to:

21 Steve P. Prahin  
22 HC 7, Box 452  
23 Payson, AZ 85541

24 Rebecca M. Sigeti  
25 598 Elusive Acres Drive  
26 HC7, Box 451  
27 Payson, AZ 85541

28 Robert Hardcastle, President  
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By:

  
Debbi Person  
Secretary to Dwight D. Nodes